THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.25124 OF 2006

DATED JANUARY, 2007

Between

Syed Shah Gulam Ali Quadri and others

... Petitioner

AND

The Joint Collector, Nizamabad and others.

.... Respondents

THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.25124 OF 2006

ORDER:

The petitioners challenge the order of the first respondent passed in exercise of revisional powers under Section 9 of the A.P.Rights in Land and Pattadar Pass Books Act, 1971 (the Act, for brevity). By impugned order, the first respondent dismissed the revision petition filed by the petitioners observing that if they have any grievance they would have to file suits in the civil Court against respondents 3 to 23 herein.

The case of the petitioners is that the land admeasuring Acs.97.04 guntas comprised in survey Nos.347 (Ac.4.06 guntas), 348 (Ac.4.23 guntas), 374/1 (Ac.7.26 guntas), 375 (Ac.2.18 guntas), 415 (Ac.10.30 guntas), 423 (Ac.4.26 guntas), 431/2 (Ac.5.10 guntas), 445 (Ac.5.13 guntas), 453 (Ac.3.27 guntas), 469 (Ac.4.30 guntas), 475 (Ac.6.08 guntas), 497 (Ac.2.31 guntas), 1002 (Ac.11.30 guntas), 525 (Ac.10.09 guntas), 415 (Ac.2.30 guntas), 453 (Ac.3.27 guntas) and 431/1 situated at Torthi village, Morthad Mandal in Nizamabad District was originally owned by S.A.Quadri, elder brother of Syed Shah Ghulam Ali Quadi. The petitioners claim to be sons of younger brother and nephews and nieces of S.A.Quadri. It is their case that S.A.Quadri was employed in the U.S.A., and in his lifetime, he executed a registered Will, dated 07.09.2004 bequeathing of his property in favour of the petitioners. He died issueless on 17.06.2005. He made an application to the District Collector complaining that the Mandal Revenue Officer (MRO) regularized large number of alleged sales under Section 5A of the Act

without following the procedure under Rule 22 of the A.P.Rights in Land and Pattadar Pass Books Rules, 1989 (the Rules, for brevity). The same was got enquired into by the MRO and submitted a report. The first respondent then issued notices to respondents 3 to 23 who disputed the Will. Believing the version, the Joint Collector, who entertained the application as a revision, dismissed the revision. Aggrieved by which, present writ petition is filed.

Learned counsel for the petitioners submits that the first respondent passed orders without verifying the records and did not advert to the question as to whether the lower authority followed the provisions of law while passing orders under Section 5A of the Act. According to the learned counsel, under Rule 22 of the Rules, the MRO is required to issue notices in Form IX, X, XI and XII, but all the procedure was followed more in breach.

As noticed supra, the Joint Collector issued notices to contesting respondents. They filed detailed counters alleging that late S.A.Quadri was never in possession of the land for the past twenty five years, that the land was purchased by the respondents, who got the sales regularized under the Act. It was also noticed that the name of the respondents was entered in the Pahanis and also Pattadar Pass Books. It was also contended that the petitioners herein are not the legalheirs of late S.A.Quadri and that Will bequeathing the entire property is unenforceable in Muslim Law. The respondents also contended before the first respondent that they have perfected the title by adverse possession.

The Joint Collector agreed with the contentions of the respondents and having noticed that the enforceability of the Will and question of adverse possession are matters which have to be decided by the civil Court, dismissed the revision petition. As seen from the impugned order, the petitioners staked their claim after lapse of more than twenty years and therefore, certainly it was a matter for a civil suit. Indeed, under Section 8(2) of the Act, any record of rights or entries in the Pahanis would be subservient to a Court decree declaring the title of a person. If so advised, the petitioners have to seek remedy before the civil Court.

The writ petition is misconceived and is accordingly dismissed. No costs.

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(V.V.S.RAO,J)

.01.2007

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